

REMARKS:

Claims 1, 6-8, 10-12, 17-19, 21, 26-28, and 30-31 are currently pending in the application.

Claims 2-5, 9, 13-16, 20, 22-25, 29, 32, and 33 have been previously withdrawn from further consideration.

Claims 1, 6-8, 11-12, 17-19, 21, 26-28, and 30 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 7,003,474 B2 to Derek Lidow ("*Lidow*") in view of Proquest (Logility Announces Voyager XPS; Internet based Application Assists Companies with Collaborative Planning, Forecasting and Replenishment (CPFR) Process) ("*Proquest*"). Claim 10 stands rejected under 35 U.S.C. § 103(a) over *Lidow* in view of *Proquest*.

Claim 31 stands rejected under 35 U.S.C. § 103(a) over *Lidow* in view *Proquest* and further in view of U.S. Patent No. 6,567,783 to Notani et al. ("*Notani*").

TELEPHONE CONFERENCE REGARDING THE NOTANI REFERENCE:

The undersigned, Steven J. Laureanti, telephoned Examiner Romain Jeanty on 4 January 2007 to discuss the *Notani* reference cited by the Examiner. Examiner Jeanty recommended conducting a formal telephonic interview on 11 January 2007 at 3:00 pm EST, Mr. Laureanti agreed.

Mr. Laureanti telephoned Examiner Jeanty at 3:00 pm EST on 11 January 2007, but only received Examiner Jeanty's voice mail. Mr. Laureanti requested Examiner Jeanty telephone Mr. Laureanti pursuant to the agreed upon telephonic interview. However, because Examiner Jeanty was not available for the agreed upon telephonic interview and the 3 month shortened statutory date is 11 January 2007, the Applicants are submitting this response on 11 January 2007.

In addition, the Applicant respectfully notes that as argued in Applicants response dated 8 June 2006, *Notani* is rejected as prior art. In addition, the Applicants respectfully

request that the Examiner call the undersigned at (817) 447-9955, if the Examiner has additional comments or suggestions to *Notani* being rejected as prior art or if the Examiner believes it would be easier to discuss the *Notani* reference over the telephone.

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 1, 6-8, 11-12, 17-19, 21, 26-28, and 30 stand rejected under 35 U.S.C. § 103(a) over *Lidow* in view of *Proquest*. Claim 10 stands rejected under 35 U.S.C. § 103(a) over *Lidow* in view of *Proquest*. Claim 31 stands rejected under 35 U.S.C. § 103(a) over *Lidow* in view of *Proquest* and further in view of *Notani*.

The Applicants respectfully submit that *Lidow* fails to disclose each and every limitation recited by Claims 1, 6-8, 11-12, 17-19, 21, 26-28, and 30. The Applicants further submit that Claims 1, 6-8, 11-12, 17-19, 21, 26-28, and 30 patentably distinguish over *Lidow*. Thus, the Applicants respectfully traverse the Examiner's rejection of Claims 1, 6-8, 11-12, 17-19, 21, 26-28, and 30 under 35 U.S.C. § 102(e) over *Lidow*.

The Applicants respectfully submit that *Lidow* or *Proquest*, either individually or in combination, fail to disclose, teach, or suggest each and every limitation of Claims 1, 6-8, 11-12, 17-19, 21, 26-28, and 30. The Applicants further submit that Claims 1, 6-8, 11-12, 17-19, 21, 26-28, and 30 patentably distinguish over *Lidow* in view of *Proquest*. Thus, the Applicants respectfully traverse the Examiner's obvious rejection of Claims 1, 6-8, 11-12, 17-19, 21, 26-28, and 30 under 35 U.S.C. § 103(a) over the proposed combination of *Lidow* in view of *Proquest*.

The Proposed *Lidow-Proquest* Combination Fails to Disclose, Teach, or Suggest Various Limitations Recited in Applicant's Claims

For example, with respect to independent Claim 1, this claim recites:

A system for managing a value chain, comprising:
a ***planning application operable*** to receive planning data from a plurality of entities included in a value chain and to ***automatically***

generate a plan according to the planning data, at least two of the entities not directly communicating planning data to one another; and
a manager application operable to:
 receive the plan and **automatically identify one or more exceptions in the plan**;
 communicate planning data relating to the exceptions to one or more of the entities;
 receive instructions from one or more of the entities regarding how the exceptions are to be resolved; and
 automatically modify the planning data in response to the instructions. (Emphasis Added).

Independent Claims 12, 21, and 30 recite similar limitations. *Lidow* or *Proquest*, either individually or in combination, fail to disclose, teach, or suggest each and every limitation of independent Claims 1, 12, 21, and 30.

The Applicants respectfully submit that *Lidow* fails to disclose, teach, or suggest independent Claim 1 limitations regarding a “**manager application** operable to: receive the plan and **automatically identify one or more exceptions in the plan system for managing a value chain**”. The Office Action points to column 7, line 60 through column 8, line 5, as allegedly teaching this limitation. However, this passage of *Lidow* fails to teach or suggest the limitation of a “**manager application** operable to: receive the plan and **automatically identify one or more exceptions in the plan system for managing a value chain**”. Instead, the cited passage of *Lidow* merely teaches that once a customer demand is received, it is validated. In *Lidow*, if the customer demand is found to be invalid, then notification is sent to the customer. However, this validation in *Lidow*, occurs before the generation of a plan. As shown in Figure 7, and explained in column 15, lines 46-65 of *Lidow*, the server generates a plan by aggregating all the validated customer demands together. Thus, *Lidow* merely teaches validating various portions of the data used to generate a plan and then generating the plan. In addition, the data validated in *Lidow* is limited to data belonging to only the customers. Thus, in *Lidow*, only exceptions relating to customers are identified. In contrast, independent Claim 1 provides for receiving data, generating a plan, and validating the plan. Therefore, *Lidow* fails to teach, suggest, or even hint at a “**manager application** operable to: receive the plan and

automatically identify one or more exceptions in the plan system for managing a value chain".

The Applicants further respectfully submit that *Lidow* fails to disclose, teach, or suggest independent Claim 1 limitations regarding "***automatically modify the planning data in response to the instructions***". The Office Action cites to column 15, lines 46-65; and column 22, lines 25-36, of *Lidow* as allegedly teaching this limitation. However, each of these two passages fails to teach, suggest, or even hint at the limitation of "***automatically modify the planning data in response to the instructions***". Column 15, lines 46-65 of *Lidow* teaches that the process of resolving validation problems may involve communicating with the customer and adjusting the demand quantities. Column 22, lines 25-36 of *Lidow* merely teaches order fulfillment and the dispatching of vehicles to pick up ordered product. Thus, both of these passages fail to teach, suggest, or even hint at the limitation of "***automatically modify the planning data in response to the instructions***."

In addition, the error process referred to in column 15, lines 46-65 is more fully described in column 8, lines 11-27. This passage of *Lidow* merely discloses that "***planners***" check supply and demand requirements. However, the "***planners***" disclosed in *Lidow* are merely "employees of the operator supply chain server." (Column 8, Lines 11-27). The planner in *Lidow* merely contact customers and suggest adjustments to their production plans to create a better supply and demand balance. In addition, the planner in *Lidow* does not need to implement planning until a credit issue, which generated an exception, is resolved by other parties. (col. 10, lines 15-40). Thus, *Lidow* fails to teach, suggest, or even hint at "***automatically modify the planning data in response to the instructions***."

The Applicants still further respectfully submit that *Lidow* fails to disclose, teach, or suggest independent Claim 1 limitations regarding a "***planning application operable*** to receive planning data from a plurality of entities included in a value chain and to ***automatically generate a plan according to the planning data***". The Office Action cites to column 8, lines 11-27, and column 14, lines 5-31 as allegedly teaching this limitation. However, column 14, lines 5-31 specifically discusses the role of planners, which are

people, reviewing, adjusting, and over-riding a rough cut capacity match. Thus, *Lidow* is merely teaching human intervention and judgment in the generating of the aggregated plan. Therefore, the process taught by *Lidow* is not ***automatic***, nor is there process performed by a ***planning application***. Thus, *Lidow* fails to teach, suggest, or even hint at a ***“planning application operable to receive planning data from a plurality of entities included in a value chain and to automatically generate a plan according to the planning data”***.

The Applicants respectfully submit that *Proquest* does not solve the deficiencies of *Lidow*. *Proquest* fails to disclose, teach, or suggest the limitations missing from *Lidow*, including the limitations of a ***“planning application operable to receive planning data from a plurality of entities included in a value chain and to automatically generate a plan according to the planning data”***, ***“a manager application operable to: receive the plan and automatically identify one or more exceptions in the plan system for managing a value chain”***, and ***“automatically modify the planning data in response to the instructions”***. The Office Action does not cite to any portion of *Proquest* as teaching or suggesting these limitations, nor does any portion of *Proquest* teach, suggest, or even hint at these limitations. *Proquest* merely discloses an internet based value chain management application that allows for collaborative planning, forecasting, and replenishment. Thus, for at least the reasons set forth above, the Office Action has failed to state a *prima facie* case of obviousness, as the proposed combination of *Lidow* in view of *Proquest* fails to teach or suggest each and every limitation as recited in independent Claim 1.

The Applicants Claims are Patentable over the *Lidow-Proquest* combination

With respect to independent Claims 12, 21, and 30, these claims include limitations similar to those discussed above in connection with independent Claim 1. Thus, independent Claims 12, 21, and 30 are considered patentably distinguishable over the combination of *Lidow* in view of *Proquest* for at least the reasons discussed above in connection with independent Claim 1.

Furthermore, with respect to dependent Claims 6-8, 11, 17-19, and 26-28: Claims 6-8 and 11 depend from independent Claim 1; dependent Claims 17-19 depend from independent Claim 12; and dependent Claims 26-28 depend from independent Claim 21 are also considered patentably distinguishable over the combination of *Lidow* in view of *Proquest*. Thus, dependent Claims 6-8, 11, 17-19, and 26-28 are considered to be in condition for allowance for at least the reason of depending from an allowable claim.

Thus, for at least the reasons set forth herein, the Applicants respectfully submit that independent Claims 1, 12, 21, and 30 and dependent Claims 6-8, 11, 17-19, and 26-28 are not obvious over *Lidow* in view of *Proquest*. The Applicants further respectfully submit that independent Claims 1, 12, 21, and 30 and dependent Claims 6-8, 11, 17-19, and 26-28 are in condition for allowance. Thus, the Applicants respectfully requests that the rejection of Claims 1, 6-8, 11-12, 17-19, 21, 26-28, and 30 under 35 U.S.C. § 103(a) be reconsidered and that Claims 1, 6-8, 11-12, 17-19, 21, 26-28, and 30 be allowed.

The Proposed *Lidow-Proquest-Official-Notice* Combination Fails to Disclose, Teach, or Suggest Various Limitations Recited in Applicants Dependent Claim 10

For example, with respect to dependent Claim 10, this claim recites:

The system of Claim 1, further comprising ***an electronic marketplace that supports the planning application and the manager application***. (Emphasis Added).

The Applicants respectfully submit that *Lidow*, *Proquest*, or the Examiner's Official Notice, either individually or in combination, fail to disclose, teach, or suggest each and every element of dependent Claim 10. Dependent Claim 10 depends from independent Claim 1, which Applicants have previously demonstrated to be in condition for allowance over the proposed combination of *Lidow* in view of *Proquest*. The Examiner's Official Notice does not cure the deficiencies of the combination of *Lidow* in view of *Proquest*. The Examiner's Official Notice does not teach the limitations missing from the combination of *Lidow* in view of *Proquest*, including the limitations of "a ***planning application operable*** to receive planning data from a plurality of entities

included in a value chain and to ***automatically generate a plan according to the planning data,*** “***a manager application*** operable to: receive the plan and ***automatically identify one or more exceptions in the plan system for managing a value chain,***” and “***automatically modify the planning data in response to the instructions.***”

Thus, because the Examiner's Official Notice fails to cure the deficiencies of the combination of *Lidow* in view of *Proquest*, the Applicants respectfully submit that dependent Claim 10 is in condition for allowance. Further, since dependent Claim 10 depends from independent Claim 1, the Applicants respectfully submit that dependent Claim 10 is also in condition for allowance at least by reason of depending from an allowable claim. Thus, the Applicants respectfully request that the rejection of dependent Claim 10 under 35 U.S.C. § 103(a) be reconsidered and that dependent Claim 10 be allowed.

The Proposed *Lidow-Proquest-Notani* Combination Fails to Disclose, Teach, or Suggest Various Limitations Recited in Applicants Independent Claim 31

The Applicants respectfully submit that *Lidow*, *Proquest* or *Notani*, either individually or in combination, fails to disclose, teach, or suggest each and every element of amended independent Claim 31. Thus, the Applicants respectfully traverse the Examiner's obvious rejection of amended independent Claim 31 under 35 U.S.C. § 103(a) over the proposed combination of *Lidow* and *Notani*, either individually or in combination.

For example, with respect to amended independent Claim 31, this claim recites:

A system for managing a value chain, comprising:
a planning application operable to:

receive planning data from a plurality of entities included in a value chain, at least two of the entities not directly communicating planning data to one another;

receive set-up information from one or more of the entities, the set-up information including characteristics of the value chain; and

automatically generate a plan according to the planning data;

and

a manager application operable to:

receive the plan and automatically identify one or more exceptions in the plan;

automatically communicate a notification regarding the existence of an exception to one or more of the entities;

receive a request for information about the exception from one or more of the entities in response to the notification;

automatically communicate planning data relating to the exception to one or more of the entities in response to receiving the request, the manager application controlling access to the planning information based on a permissibility framework;

receive instructions from one or more of the entities regarding how the exceptions are to be resolved; and

automatically modify the planning data in response to the instructions. (Emphasis Added).

Lidow, *Proquest*, or *Notani*, either individually or in combination, fails to disclose, teach, or suggest each and every element of independent Claim 31.

The Office Action Acknowledges that the Proposed *Lidow-Proquest* Combination Fails to Disclose Various Limitations Recited in Applicants Independent Claim 31

The Applicants respectfully submit that the Office Action acknowledges, and the Applicants agree, that *Lidow* and *Proquest* fail to disclose the emphasized limitations noted above in dependent Claim 31. Specifically the Examiner acknowledges that *Lidow* and *Proquest* fail to teach "the concept of controlling access to the planning information based on a permissibility framework." (11 October 2006 Office Action, Pages 4-5). However, the Examiner asserts that *Notani* discloses the acknowledged shortcomings in *Lidow* and *Proquest*. However, *Notani* is rejected as prior art.

***Notani* is Rejected as Prior Art for Applicants Independent Claim 31**

The Applicants respectfully maintain that the subject Application and the *Notani* U.S. Patent Application Publication were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same entity, i2 Technologies US, Inc. ***In accordance with 35 U.S.C. § 103(c) and MPEP 706.02(l)(1), Notani is disqualified as prior art, in the subject Application.***

The Applicants submitted the above argument in the previous Response to Office Action dated 8 June 2006, however, the Examiner did not acknowledge or otherwise submit an argument challenging the rejection of the *Notani* reference as prior art. The undersigned, Steven J. Laureanti telephoned the Examiner on 4 January 2007 in order to expedite prosecution of the subject Application and to clear up the issue regarding the rejection of the *Notani* reference. However, since, as discussed above, the Examiner did not respond in a timely manner to the agreed upon telephone interview coupled with the Examiner's silence on this issue in the Office Action dated 11 October 2006. The Applicants respectfully submit that the silence to this issue is an acknowledgment that *Notani* is rejected as prior art, in the subject Application.

Thus, the Applicants respectfully submit that independent Claim 31 is in condition for allowance. The Applicants further respectfully request that the rejection of independent Claim 31 under 35 U.S.C. § 103(a) be reconsidered and that independent Claim 31 be allowed.

THE LEGAL STANDARD FOR OBVIOUSNESS REJECTIONS UNDER 35 U.S.C. § 103:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there ***must be some suggestion or motivation***, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) ***must teach or suggest all the claim limitations***. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and ***not based on applicant's disclosure***. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 2142. Moreover, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); M.P.E.P. § 2143.03.

With respect to alleged obviousness, there must be something in the prior art as a whole to **suggest** the desirability, and thus the obviousness, of making the combination. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561 (Fed. Cir. 1986). In fact, the absence of a suggestion to combine is dispositive in an obviousness determination. *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573 (Fed. Cir. 1997). The mere fact that the prior art can be combined or modified does not make the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990); M.P.E.P. § 2143.01. The consistent criterion for determining obviousness is whether the prior art would have suggested to one of ordinary skill in the art that the process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894 (Fed. Cir. 1988); M.P.E.P. § 2142.

A recent Federal Circuit case makes it clear that, in an obviousness situation, the prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art. *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35.

CONCLUSION:


In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although the Applicants believe no fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

1/11/07
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CUSTOMER NO. 53184

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